

Filed for intro on 02/14/2001
HOUSE BILL 1391 By
Scroggs

SENATE BILL 1668
By Person

AN ACT to amend Tennessee Code Annotated, Title 8; Title 24;
Title 36; Title 37; Title 45; Title 68 and Title 71, relative
to child support.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-2-305(b)(1), is amended by deleting subdivision (D) in its entirety and by substituting instead the following:

(D) The department of human services or its contractor.

SECTION 2. Tennessee Code Annotated, Section 36-2-319 is amended, effective July 1, 2002, by deleting subsections (b) and (c) in their entireties and by substituting instead the following:

(b) The provisions of § 36-5-501(a)(3) shall apply with respect to enrollment of a child in the noncustodial parent's employer-based health care plan.

SECTION 3. Tennessee Code Annotated, Section 36-5-101(f) is amended, effective July 1, 2002, by deleting subdivision (3) in its entirety and by substituting instead the following:

(3) The provisions of § 36-5-501(a)(3) shall apply with respect to enrollment of a child in the noncustodial parent's employer-based health care plan.

SECTION 4. Tennessee Code Annotated, Section 36-5-103(f) is amended by deleting subdivision (1) and subdivision (6) in their entireties and by substituting instead the following and by re-numbering remaining subdivisions accordingly:

(1)(A) Every three (3) years, upon request of the custodial or non-custodial parent, or any other caretaker, of the child, or, if there is an assignment of support pursuant to title 71, chapter 3, part 1, upon request of the department or upon request of the custodial or non-custodial parent, or any other caretaker, of the child, then, in any support order subject to enforcement under Title IV-D of the Social Security Act, the department shall review, and, if appropriate, adjust the order in accordance with child support guidelines established pursuant to § 36-5-101(e) if the amount of the child support award differs from the amount that would be awarded in accordance with the guidelines. The adjustment under this subdivision shall be made without a requirement for proof or showing of a change in circumstances.

(B) In the case of a request for review that is made within the three (3) year cycle, the department shall review, and, if the requesting party demonstrates a substantial change in circumstances, adjust the support order in accordance with the guidelines established pursuant to § 36-5-101(e).

(C) The review and adjustment in subdivisions (1)(A) and (B) may be conducted by the court, or by the department by issuance of an administrative order by the department or its contractors.

SECTION 5. Tennessee Code Annotated, Section 36-5-106 is amended by deleting the language "delinquent support" in the first sentence of subsection (a) and by substituting instead

the word “arrear”; and is further amended by deleting the United State Code designation “654A(4)” in subsection (b) and by substituting instead the designation “654(4)”; and is further amended in subsection (c) by adding the language “and the amount of the arrears” immediately following the language “delinquent support”; and is further amended by deleting the language “part 8 of this chapter” in subsection (c), and by substituting instead the Code designations and punctuation “§36-5-805, § 36-2-311”.

SECTION 6. Tennessee Code Annotated, Section 36-5-501(a)(3) is amended, effective July 1, 2002, by deleting subdivision (3) in its entirety and by substituting instead the following:

(3)(A) Unless a court or administrative order stipulates that alternative health care coverage to employer-based coverage is to be provided for a child subject to a Title IV-D child support order, in any case in which a noncustodial parent is required by a court or administrative order to provide health care coverage for such a child, and the employer of the non-custodial parent is known to the department, the department shall use any federally-required medical support notices to provide notice to the employer of the requirement for employer-based health care coverage for such child through the child’s parent who has been ordered to provide health care coverage for such child. The department shall send the federal medical support notice to any employer of a noncustodial parent subject to such an order within two (2) business days of the entry of such employee, who is an obligor in a Title IV-D case, into the directory of new hires under title 36, chapter 5, part 11.

(B) Within twenty (20) business days after the date of the medical support notice, the employer of a noncustodial parent subject to an order for health care coverage for the child shall transfer the notice to the

appropriate plan providing such health care coverage for which the child is eligible. The employer shall withhold from the noncustodial parent's compensation any employee contributions necessary for coverage of the child and shall send any amount withheld directly to the health care plan to provide such health care coverage for the child. If the employee contests the withholding of such employee contributions, the employer shall initiate withholding until the contest is resolved. The employee/obligor shall have right to contest the withholding order issued pursuant to this subdivision (3) based upon a mistake of fact according the provisions for appeal provided pursuant to title 36, chapter 5, part 10.

(C)(i) An employer shall notify the department promptly whenever the noncustodial parent's employment is terminated.

(ii) The department shall promptly notify the employer when there is no longer a current order for medical support in effect for which the department is responsible.

(D) The liability of the noncustodial parent for employee contributions to the health care plan necessary to enroll the child in the plan shall be subject to all available enforcement mechanisms under this title or any other provision of law.

(E) Upon receipt of the notice required by this subdivision which appears regular on its face and which has been appropriately completed, the notice is deemed a qualified medical child support order under 29 USC § 1169(a)(5)(C)(i). The health insurance plan administrator of a participant under a group health plan who is the noncustodial parent of the child for whom the notice was received pursuant to this subdivision, shall, within forty (40) business days:

(i) Notify the state Title IV-D agency of any state or territory that issued the notice with respect to whether coverage is available for such child under the terms of the plan, and, if so, whether such child is covered under the plan and either the effective date of the coverage or, if necessary, any steps to be taken by the custodial parent, or official of a state or political subdivision thereof substituted for the name of the child pursuant to 29 USC § 1169(a)(3)(A), to effectuate coverage. The department or its contractors, in consultation with the custodial parent, must promptly select from available plan options when the plan administrator reports that there is more than one (1) option available under the employer's plan; provided, however, if such response is not made to the plan administrator within twenty (20) business days, and the plan has a default option for coverage, the plan administrator shall enroll the child in that default option. If there is no default option, the plan administrator may call the office of the department or contractor which sent the notice and seek direction as to the child's enrollment in the available plans;

(ii) Provide the custodial parent (or such substituted official) a description of the coverage available and any forms or documents necessary to effectuate such coverage and permit the custodial parent or substituted official to file claims;

(iii) Send the explanation of benefit statements to the custodial parent, substituted official and the employee;

(iv) Send the reimbursement to the custodial parent, legal guardian or substituted official for expenses paid by the custodial

parent, legal guardian or substituted official for which the child may be eligible under the plan.

(v) Nothing in subdivision (E) shall be construed as requiring a group health plan, upon receipt of a medical support notice, to provide benefits under the plan, or eligibility for benefits, under the terms of the plan in addition to, or different from, those provided immediately before receipt of such notice, except as may otherwise be required by the provisions of title 56, chapter 7, part 23.

SECTION 7. Tennessee Code Annotated, Section 36-5-802(1) is amended by adding the language “or any other persons from whom testing may provide proof of parentage” immediately after the language “putative father(s)”; and is further amended by adding the language “or any other legal proceeding” immediately following the language “paternity action”.

SECTION 8. Tennessee Code Annotated, Section 36-5-1002(a) is amended, effective July 1, 2002, by deleting subdivision (6) in its entirety and by substituting instead the following:

(6) Review of enrollment of a child for health insurance coverage in employer-based health coverage pursuant to § 36-5-501(a)(3) following issuance of an order to require the noncustodial parent to provide such coverage shall be limited to a mistake of fact.

SECTION 9. Tennessee Code Annotated, Section 36-5-1002(a)(13) is amended by deleting the Code reference “36-5-813” and by substituting instead the Code reference “36-5-816” and by deleting the word “or” at the end of subdivision (a)(13) and by substituting instead the word “and”.

SECTION 10. Tennessee Code Annotated, Section 36-5-1102 is amended by adding the language “hire date” immediately following the language and punctuation “a report that contains the name, address,”.

SECTION 11. Tennessee Code Annotated, Section 36-5-1201 is amended by deleting subsection (e) in its entirety and by substituting instead the following language:

(e) In this part, the term “high-volume automated administrative enforcement” in interstate cases means, on request of another state, the identification by the department, through automated data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in other states, and the seizure of such assets by the department, through levy or other appropriate means.

SECTION 12. Tennessee Code Annotated, Section 37-1-151(b)(4)(G) is amended, effective July 1, 2002, by deleting subdivision (G) in its entirety and by substituting instead the following:

(G) The provisions of § 36-5-501(a)(3) shall apply with respect to enrollment of a child in the noncustodial parent’s employer-based health care plan.

SECTION 13. Tennessee Code Annotated, Section 45-19-101(a) is amended by adding the language “and the Federal Parent Locator Service in the case of financial institutions doing business in two (2) or more states,” immediately preceding the language “a data match system”.

SECTION 14. Tennessee Code Annotated, Section 45-19-102(a)(1) is amended by adding the language “or for disclosing any records to the Federal Parent Locator Service as may be required by this part” immediately following the language and punctuation “contractors or agents,”.

SECTION 15. Tennessee Code Annotated, Section 71-3-124(c) is amended by adding the following new subdivision (3):

(3) An application for IV-D services or the assignment of rights to support through application or receipt of benefits under this title shall constitute permission of the applicant or assignor for the department or its

contractors to immediately recoup any overpayments made to such persons by any means, including retention by the department or its contractors of subsequent support payments due such persons to offset any overpayments. The recoupment shall be subject to review pursuant to § 36-5-1002(a)(11).

SECTION 16. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 17. The provisions of Sections 2, 3, 6, 8, and 12, shall take effect on July 1, 2002, the public welfare requiring it. The remaining Sections of this act shall take effect upon becoming a law, the public welfare requiring it.